

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

ALASKA COMMUNITY ACTION
ON TOXICS,

Petitioner,

v.

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY, *et al.*,

Respondents.

No. 21-70168

YUROK TRIBE, et al.,

Petitioners,

v.

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY, *et al.*,

Respondents.

No. 21-70670

RESPONDENTS' STATUS REPORT

Pursuant to the Court's Orders of June 23, 2022, and November 7, 2024,
Respondents United States Environmental Protection Agency and its Administrator
file this status report.

EPA recently promulgated a rule entitled “Decabromodiphenyl Ether and Phenol, Isopropylated Phosphate (3:1); Revision to the Regulation of Persistent, Bioaccumulative, and Toxic Chemicals under the Toxic Substances Control Act (TSCA),” 89 Fed. Reg. 91486 (Nov. 19, 2024), which amended the EPA rule challenged in the above-captioned consolidated cases, 86 Fed. Reg. 880 (Jan. 6, 2021). This latest rule is scheduled to take effect on January 21, 2025. *Id.* at 91486. Under TSCA, an aggrieved person generally has 60 days from a rule’s promulgation to file a petition for review “with the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which such person resides or in which such person’s principal place of business is located.” 15 U.S.C. § 2618. *See also* 40 C.F.R. § 23.5 (regarding the time and date of EPA’s promulgation).

Prior to filing this status report, EPA conferred with Petitioners Alaska Community Action on Toxics, Yurok Tribe, Consumer Federation of America, Learning Disabilities Association of America, and Center for Environmental Transformation, which commenced these consolidated cases in 2021 seeking review of the preceding TSCA rule respecting decabromodiphenyl ether cited above. Petitioners wish for these consolidated cases to remain in abeyance pending the 60-day review period while they determine whether to challenge

EPA's amended TSCA rule for decabromodiphenyl ether, and EPA does not oppose.

Respectfully submitted,

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Dated: December 3, 2024

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